

REMARKS

The present application was filed on November 26, 2003 with claims 1-20. Claims 1, 18 and 20 are the independent claims.

Claims 1-7 and 9-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over allegedly admitted prior art in view of U.S. Patent No. 7,149,216 (hereinafter “Cheriton”) and U.S. Patent Application Publication No. 2004/0078683 (hereinafter “Buia”). To reference the allegedly admitted prior art, the Examiner cites to the publication of the present application, U.S. Patent Application Publication No. 2005/0114655.

As indicated in their previous response, Applicants expressly reserve the right to apply the fee paid for the previous Notice of Appeal dated March 12, 2008 to any later appeal on the present application. See MPEP §§ 1207.04 and 1208.02; see also 35 U.S.C. §134(a) (emphasis added) (“An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.”)

Independent claims 1, 18 and 20 have been amended without prejudice solely to clarify the claimed subject matter. More specifically, these claims have been amended to incorporate the limitations of dependent claim 9. Dependent claim 9 has been canceled.

The Examiner argues that the limitations of dependent claim 9 are shown in paragraph [0099] of Buia. See the final Office Action at page 8, paragraph (h). However, the limitations of claim 9, now included in each of the independent claims, call for comparing an updated node with other nodes of the master list. If a duplicate node is found, the copied node is deleted and a pointer to the duplicate node is provided to an ancestor node that points to the given node, a subtree pointer of the ancestor node is updated to the duplicate node pointer, a reference count of the duplicate node now pointed to by the ancestor node is incremented and a reference count of the given node previously pointed to by the ancestor node is decremented. The relied-upon portion of the Buia reference clearly fails to meet these limitations. For example, it makes no mention of deleting a copied node, providing a pointer to a duplicate node, updating a subtree pointer, and incrementing and decrementing respective reference counts of respective duplicate and given nodes. The allegedly admitted prior art and Cheriton fail to supplement this fundamental deficiency of Buia as applied to previous dependent claim 9.

It is therefore believed that the limitations of claims 1, 18 and 20 as amended are not met by the collective teachings of the allegedly admitted prior art in view of Cheriton and Buia.

Dependent claims 2-7, 10-17 and 19 are believed allowable for at least the reasons identified above with regard to their respective independent claims.

The present amendment is not directed to subject matter that would require further search, as it involves incorporating the limitations of an existing dependent claim, and in any event places the application in better condition for appeal. Accordingly, the amendment should be entered pursuant to 37 CFR 1.116(b)(2).

In view of the above, Applicants believe that the claims as amended are in condition for allowance, and respectfully request withdrawal of the §103(a) rejection.

Respectfully submitted,



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